

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**JOEL CARTER,**

**Plaintiff,**

**CIVIL ACTION NO. 08-CV-11862-DT**

**VS.**

**DISTRICT JUDGE PATRICK J. DUGGAN**

**WEIDMAN, et al.,**

**MAGISTRATE JUDGE MONA K. MAJZOUN**

**Defendants.**

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**OPINION AND ORDER DENYING PLAINTIFF'S MOTION TO COMPEL**

This matter comes before the Court on Plaintiff's Motion to Compel filed on September 4, 2008. (Docket no. 18). Defendants have not responded, and the time for response has now expired. All pretrial matters have been referred to the undersigned for action. (Docket no. 20). The Court dispenses with oral argument pursuant to E. D. Mich. LR 7.1(e). This matter is now ready for ruling.

Plaintiff is a prisoner proceeding *pro se* who asks for a court order compelling Defendants to respond to his discovery requests. (Docket no. 1 at 3). However, the only evidence that Plaintiff served this discovery request on Defendants is the certificate of service attached to this Motion which is dated September 2, 2008. It is therefore apparent that Plaintiff has not allowed Defendants the 30-day period to respond before filing this Motion to Compel. *See* Fed. R. Civ. P. 34(b)(2)(A). Plaintiff's motion will therefore be denied because it was filed prematurely. Discovery should be served and responded to among the parties without court involvement unless a problem develops which requires court intervention. Plaintiff must attempt to obtain responses to his discovery

requests from Defendants and, if that is unsuccessful, may file a motion to compel after the Defendants' time for responding has expired.

**IT IS THEREFORE ORDERED** that Plaintiff's Motion to Compel (docket no. 18) is **DENIED** without prejudice.

**NOTICE TO THE PARTIES**

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: October 02, 2008

s/ Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

**PROOF OF SERVICE**

I hereby certify that a copy of this Order was served upon Joel Carter and Counsel of Record on this date.

Dated: October 02, 2008

s/ Lisa C. Bartlett  
Courtroom Deputy

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